

REMARKS

In response to the Office Action of February 28, 2003, claims 13 and 15 have been amended and new claims 24-28 have been added. Claims 1-28 are presently pending in this application. Reconsideration of this application, as amended, is requested.

I. Amendment to Specification

In the Office Action of February 28, 2003, the abstract of the specification was objected to because the first sentence included an implied phrase. In response, the first sentence has been deleted. Therefore, withdrawal of the rejection is respectfully requested.

II. Claim Objections

In the Office Action of February 28, 2003, claim 15 was objected to. In response, claim 15 has been amended as proposed by the Examiner. Therefore, withdrawal of the objection is respectfully requested.

III. Claim Rejections Under 35 U.S.C. § 112

In the Office Action of February 28, 2003, claim 13 was rejected under 35 U.S.C. § 112 because of the phrase "the metal" lacked antecedent basis. In response, as proposed by the Examiner, claim 13 has been amended to depend from claim 12 and not claim 10. Therefore, withdrawal of the rejection is respectfully requested.

IV. Claim Rejections Under 35 U.S.C. § 103

Claims 1-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Imes et al. (U.S. Patent No. 6,305,054) in view of Smith (U.S. Patent No. 2,690,193). This rejection is respectfully traversed.

In considering obviousness, the Examiner may not combine references unless there is a reason, suggestion or motivation in the prior art that would lead one of ordinary skill in the art to make the combination. For the reasons set forth below, Applicants hereby submit that there is no motivation to combine the '054 and '193 patents.

In assessing the reasonableness of combining the '054 patent and '193 patent, it is important to note that the clamps disclosed in the '054 and '193 patents are different styles of

clamp. For example, the clamps disclosed in the '054 patent are adapted to make a direct metal to metal contact with a pipe and typically would not be used with a gasket. In contrast, the '193 is specifically designed for use with a gasket.

Applicants acknowledge that gasket style clamps have been designed with interlocking teeth. This is readily apparent from the prior art cited by the Examiner. For example, United States Patent No. 2,960,193; 3,004,781; 1,745,295; 2,512,741; 4,473,246; and 2,227,551 all disclose gasket style clamps having interlocking teeth. The teeth are provided to facilitate compression of the underlying gaskets.

Taking the above into consideration, Applicants submit that there is no motivation to modify the '054 patent to include interlocking teeth. The '193 patent has interlocking teeth for the purpose of facilitating compression of the underlying gasket. Since the '054 patent is designed to be used without a gasket, one of ordinary skill in the art would not be motivated to modify it to include interlocking teeth as shown in the '193 patent.

In the Office Action, the Examiner contends it would have been obvious to modify the '054 patent with a plurality of interlocking fingers and pockets to better align and guide the two ends together and to ensure that the ends remain engaged when the clamp is tightened about a pipe joint. This contention is respectfully traversed. Nowhere does the '054 patent teach or suggest that alignment or engagement of the ends is a problem that needs to be solved. Quite to the contrary, the bolt and sleeve arrangement of the clamp disclosed in the '054 patent guides the ends together and ensures alignment of the ends. Therefore, it appears that the Examiner's rationale for combining the references is based on impermissible hindsight reconstruction after having had the benefit of reading Applicants' disclosure.

Moreover, Applicants' invention addresses a long-felt need and also provides unexpected results. Evidence of the long-felt need can be found at Section 5 of the Declaration of Wayne Wagner. At Section 5, Mr. Wagner indicates that puckering and pinching of pipes has been a problem since he first began developing clamps over 30 years ago. Evidence that the ability of the present invention to reduce pipe puckering and pinching was unexpected can be found at Sections 6 and 7 of the Wayne Wagner Declaration.

As indicated above, the Declaration of Mr. Wagner sets forth both a long-felt need in the art, and unexpected results, both of which indicate that the invention of the present application

was not obvious. In view of the above, withdrawal of the rejection of claims 1-23 under 35 U.S.C. § 103(a) is respectfully requested.

V. Claims 24-28

Claims 24-28 depend upon independent claim 16. Therefore, for at least the same reasons specified above with respect to claim 16, it is submitted that claims 24-28 are also in immediate condition for allowance.

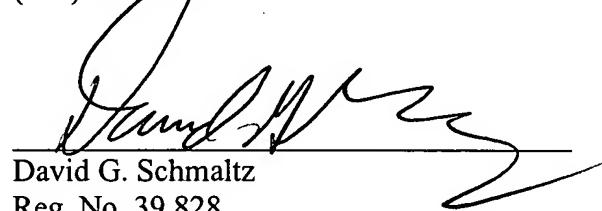
VI. Summary

In view of the above amendments and remarks, it is submitted that the present application is in immediate condition for allowance, and notification to that effect is respectfully requested. Please direct any inquiries concerning this application to the undersigned attorney at 612-336-4617.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: 6/27/03



David G. Schmaltz
Reg. No. 39,828
DGS:PSTkaw

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Abstract

Abstract beginning at page 11 has been amended as follows:

[A pipe clamp is described in this disclosure. The] A pipe clamp [includes] including a strap adapted to surround a pipe. The strap includes first and second opposing ends separated by a gap. The clamp also includes a fastener that extends across the gap for tightening or loosening the clamp by narrowing or widening the gap between the first and second opposing ends of the strap. The first opposing end includes at least one projection and the second opposing end defines at least one recess for receiving the projection when the clamp is tightened.

In the Claims

Claims 13 and 15 have been amended as follows:

13. (Once Amended) The pipe clamp of claim [10] 12, wherein the metal is stainless steel or aluminized steel.

15. (Once Amended) The pipe clamp of claim 10, wherein the [strap has a] wall thickness of the strap is in the range of .065 to .105 inches.

Claims 24-28 are new.